

## **Chapter 18.04**

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**18.04.005 Definitions and interpretation of language.**

For the purpose of Division I of this title, the words and phrases set forth in this chapter shall have the meanings respectively ascribed to them herein, and the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used. (Ord. 559 N.S. § A (part), 1981)

**18.04.010 Abutting.**

"Abutting" means land having a common property line or district line, or separated only by a private street, alley or easement. (Ord. 559 N.S. § A (part), 1981)

**18.04.015 Accessory use or structure.**

"Accessory use or structure" means a use or structure subordinate to or part of the principal use on the same lot, and serving a purpose customarily incidental to the principal use. Guest houses, caretakers or granny units are not considered accessory uses or structures. (Ord. 1055 N.S. § C (part), 1991; Ord 1046 N.S. § 3 (part), 1991; Ord. 559 N.S. § A (part), 1981)

**18.04.017 Administrative office.**

"Administrative office" means offices and service facilities performing as headquarters; regional, or other level management and administrative services for firms and institutions. (Ord. 899 N.S. § 1 (part), 1989)

#### **18.04.018.1 Adult arcades.**

"Adult arcades" means any place to which the public is permitted or invited, wherein coin-operated, currency operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets, monitors, receivers, transmitters, video cassette players or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.2 Adult business.**

"Adult Business" means a business which includes any of the following: sells or rents items related to "specified anatomical areas" or "specified sexual activities" for over twenty percent of the year, and which items represent over twenty percent of the inventory or stock in trade or titles offered or floor space and/or over twenty percent of the net receipts of the business whichever is greater; depicts or projects still or moving photographs related to "specified anatomical areas" or "specified sexual activities" for over twenty percent of the year, which depiction or projection represents over twenty percent of the net receipts of the business; or provides live entertainment, massage or other service to patrons, regardless of percentage of net receipts or other measurement of share of the overall business, which is related to "specified anatomical areas" or "specified sexual activities".

##### **1. Partial listing of types of adult businesses.**

"Adult businesses" include but are not limited to: adult bookstores, adult video stores, adult novelty stores, adult arcades, adult motels, adult theaters, adult entertainment enterprises, adult cabarets, escort agencies, massage parlors, nude modeling studios; or places which engage in or allow couch dancing, topless dancing, nude or semi-nude mud wrestling or similar businesses.

##### **2. Exceptions.**

The following types of businesses which are regulated by state or professional agencies or which have only incidental services or products which could be associated with "adult businesses" are exempt from the provisions of this ordinance:

a. Therapeutic or holistic massage. Massage which is conducted by doctors, nurses, osteopaths or chiropractors, teachers, barbers, beauticians or by massage technicians which have received at least one hundred hours of instruction and supervised training at recognized massage schools or who have been licensed in massage by the state, is exempt.

B. Medical or psychological therapies. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt.

C. Modeling or theatrical performances. Nude modeling done at infrequent intervals in connection with a college or art school, accredited by a nationally recognized accreditation organization, for students who have enrolled on a semester or quarterly basis with tuition is exempt. Occasional theatrical performances, either live or in motion picture theaters, in which "nudity" is incidental to the content of the presentation, are exempt.

D. Incidental sale or rental of merchandise. Businesses which incidentally sell or rent adult merchandise, involving less than twenty percent of the floor space of the establishment or less than twenty percent of the net receipts, whichever is greater, are exempt, providing that all other laws on obscenity and indecent behavior are complied with.

E. Private non-commercial behavior. This section does not regulate the private behavior of adults, which is otherwise permitted by law, where there is no payment, gratuity, exchange of labor or goods, or other consideration of a transaction. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.3 Adult bookstores.**

"Adult bookstores" means any premises in which twenty percent or more of the titles offered or to which twenty percent or more of the actual display area of the store is devoted books, magazines, periodicals or merchandise which depict or describe specified sexual activity. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.4 Adult cabaret.**

"Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features: (a) persons who appear in a state of nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by a depiction or description of "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.5 Adult entertainment enterprise.**

"Adult entertainment enterprise" means any business activity wherein is furnished for a fee or charge or other like consideration the opportunity to paint, feel, handle, touch, to be in the presence of, be entertained by the unclothed body, or the unclothed portion of the body of another person, or to be so painted, felt, handled, touched or observed by another person, or to observe, view or photographs any such activity, and shall include but not be limited to nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, nude wrestling centers and adult or nude art or photograph studios. "Unclothed portion of the body" means a state of dress so as to expose the female breast below a point immediately above the top of the areola, male or female genitals, pubic areas, buttocks or female breast with only the nipple and areola covered. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.6 Adult hotel/adult motel.**

"Adult hotel/adult motel" means a hotel or motel or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, computer software, slides or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television; (2) offers a sleeping room for rent for a period of time less than ten hours; or (3) allows a tenant or occupant to sub-rent the sleeping rooms for a time period of less than ten hours. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.018.7 Adult novelty store.**

"Adult novelty store" means an establishment with over twenty-percent of: (a) its floor area devoted to; (b) stock-in-trade consisting of; or (c) gross revenues derived from, goods which are replicas of, or which simulate, "specified anatomical areas" or "specified sexual activities," or goods which are designed to be placed on or in "specified anatomical areas," or to be used in conjunction with "specified sexual activities." (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.018.8 Adult theater.**

"Adult theater" means a commercial establishment in which for any form of consideration, films, motion pictures, video cassettes, video tapes, laser discs, slides or similar photographic or electronic reproductions are regularly shown and which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," or to which minors are not admitted, or with respect to which advertising for said pictures is contained in the adult theaters sections of local newspapers, or in which on a regular basis sexual intercourse, oral copulation, masturbation, homosexual acts or other specified sexual activities are actually shown or simulated. (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.018.9 Adult video store.**

"Adult video store" means a commercial enterprise which offers for sale or rental for any form of consideration, for over twenty-percent of titles offered or over twenty-percent of actual display area of the store, whichever is more, any one or more of the following: photographs, films, motion pictures, laser discs, video cassettes, video tapes or video reproductions, slides or other visual representations which primarily depict or describe "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.020 Agent of owner.**

"Agent of owner" means any person who can show written proof that he is acting for the property owner. (Ord. 559 N.S. § A (part), 1981)

**18.04.025 Agriculture.**

"Agriculture" means the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities; and provided, further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. (Ord. 559 N.S. § A (part), 1981)

**18.04.030 Alley or lane.**

"Alley" or "lane" means a public or private way not more than thirty feet wide, affording only secondary means of access to abutting property. (Ord. 559 N.S. § A (part), 1981)

**18.04.035 Alter.**

"Alter" means to change any of the supporting members of buildings, such as bearing walls, columns, beams or girders. (Ord. 559 N.S. § A (part), 1981)

**18.04.036 Amusement/Entertainment Arcade.**

"Amusement/Entertainment Arcade." is a commercial establishment involving mechanical or electronic games operated on a private or for-profit basis. Mechanical or electronic games include any machine, apparatus, contrivance, appliance or device which may be operated or played upon by placing or depositing therein of any coin, check, slug, ball, or any other article or device, or by involving in its use either skill or chance, including, but not limited to tape machine, pinball machine, bowling game machine, shuffleboard machine, electronic video game, or any other similar machines or similar services. Commercial establishments with 10 or fewer mechanical or electrical games and which are incidental to the primary use are not consider arcades. (Ord. 1215 N.S. § 4, 1995)

**18.04.040 Apartment vacancy rate.**

"Apartment vacancy rate" means the number of vacant apartments in the city at a given time, shown as a percentage of the total number of apartments in the city. Vacant apartments include those units which are:

- A. Currently vacant and available for rent or lease;
  - B. Vacant but temporarily not available for rent or lease due to painting, cleaning or repairs; and
  - C. Currently occupied but will become available for rent or lease within one week.
- (Ord. 559 N.S. § A (part), 1981)

**18.04.045      Automobile service station or gasoline service station.**

A.      "Automobile service station" or "gasoline service station" means a retail place of business engaged exclusively in dispensing of automotive fuel and motor oil; and may as a secondary or ancillary use engage in supplying goods and services essential to the normal operation of automobiles, such as: vehicle washing and lubricating services; the sale and servicing of tires, batteries, replacement items and other automotive accessories; minor automotive repair; and the vending of prepackaged soft drinks, tobacco products, and snack foods from automatic vending machines.

B.      This definition shall not be deemed to include such things as body or fender work, painting or major automotive repairs.

C.      Gasoline service stations may also provide a towing service limited to no more than two trucks or equipment rental, subject to use permit conditions of approval by the reviewing agency.

D.      When a conditional use permit shall have been granted to authorize an automobile service station or gasoline service station on a lot, the only use permitted thereon shall be the supplying of those goods and services described in sections A and C above unless such conditional use permit expressly authorizes other uses. Permitted uses otherwise allowed in the zoning district in which a service station is located are not allowed in conjunction with a service station unless specifically authorized by a conditional use permit. (Ord. 1307 N.S. § 1, 1996; Ord. 1135 N.S. § 1, 1993; Ord. 715 N.S. § 1, 1985; Ord. 559 N.S. § A (part), 1981)

**18.04.050      Automobile wrecking.**

"Automobile wrecking" means the dismantling or disassembling of used motor vehicles or trailers, the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts, and the towing of such vehicles or parts in connection with such activity. (Ord. 559 N.S. § A (part), 1981)

**18.04.055      Basement.**

"Basement" means a story whose floor is more than twelve inches, but not more than one-half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar," which is a story more than one-half below such level). A basement, when used as a dwelling, shall be counted as a story for purposes of height measurement, and as a half-story for purposes of side yard determination. (Ord. 559 N.S. § A (part), 1981)

**18.04.057      Boardinghouse or roominghouse.**

"Boardinghouse or roominghouse" means a dwelling or part thereof where meals and/or lodging are provided for compensation. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.060      Building.**

"Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side-yard requirements as provided in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.063      Building Coverage**

"Building Coverage" means the ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area. (Ord. 1473 N.S. § 1, 2000)

**18.04.065      Building, height of.**

"Height of building" means the vertical distance from the average contact ground level at the front wall of the building, to the highest point of the coping of a flat roof or mansard roof, or the highest point of a ridge for gable, hip or gambrel roofs. (Ord. 1323 N.S., § 3, 1997; Ord. 559 N.S. § A (part), 1981)

**18.04.070      Building, main.**

"Main building" means a building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the building site on which the same is located. (Ord. 559 N.S. § A (part), 1981)

**18.04.071      Caretakers unit.**

"Caretakers unit" means a dwelling unit accessory to a principal use on a site and intended for occupancy on the same site, as a caretaker, security guard, servant or similar position generally requiring residence on the site. (Ord. 1055 N.S. § C (part), 1991)

**18.04.075      Cessation of use.**

As used in Division I of this title, a use shall be deemed to have ceased when it has been discontinued, either temporarily or permanently, whether with the intent to abandon such use or not. (Ord. 559 N.S. § A (part), 1981)

**18.04.077      City Geologist.**

The term City Geologist as used in this title means a registered professional geologist who is certified by the State of California in the specialty of engineering geology (C.E.G.) who is either a staff member or a consultant retained by the City. (Ord. 1176 § 7, 1994)

**18.04.080      Combining district.**

"Combining district" means a district within which certain regulations and requirements apply in addition to, and are combined with, regulations and requirements of another district. (Ord. 559 N.S. § A (part), 1981)

**18.04.085      Commercial.**

"Commercial" means any activity on or use of land which involves the buying, selling, processing or improving of things not produced on the land, and having financial gain as the primary aim of the activity or use, whether or not such activity or use is for hire or on account of the buyer, seller, processor or improver. (Ord. 559 N.S. § A (part), 1981)

**18.04.090 Commercial recreation.**

"Commercial recreation" means a recreation facility operated as a business and open to the general public for a fee. Commercial recreation uses include but are not limited to; theaters, bowling lanes, batting cages, billiard parlors, gymnasiums, exercise studios, martial arts or dance studios, golf courses and driving ranges. (Ord. 1215 N.S. § 5, 1995; Ord 1135 N.S. § 3, 1993; Ord. 604A N.S. § A, 1983; Ord. 559 N.S. § A (part), 1981)

**18.04.095 Community apartment.**

"Community apartment" means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of an apartment located thereat. (Ord. 559 N.S. § A (part), 1981)

**18.04.100 Conditional use.**

"Conditional use" means a use of land for which a conditional use permit is required, pursuant to Chapter 18.54 of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.105 Condominium.**

"Condominium" means individual ownership of a dwelling unit within a multiple-unit structure exclusive of the land underlying such structure. (Ord. 559 N.S. § A (part), 1981)

**18.04.110 Condominium development.**

"Condominium development" means a structure and appurtenant premises divided in ownership by the existence of the condominiums as now or hereafter defined in Section 783 of the Civil Code of the state, and shall include instances where ownership is so divided following prior single ownership of the entire structure and premises, as well as new structures so divided in ownership. (Ord. 559 N.S. § A (part), 1981)

**18.04.115 Construction yard.**

"Construction yard" means an area on or immediately adjacent to a major construction or demolition site used on a temporary basis for the parking and storage of equipment used in the project, and the storage and preparation of materials and other items used in the project. Such yard may include construction offices and such shops as are necessary for work on the immediate project. (Ord. 559 N.S. § A (part), 1981)

**18.04.117 Convenience Market/Store.**

"Convenience market/Store" is defined as a retail establishment which contains less than five thousand square feet of gross floor area allocated for the sale of groceries, staples, dairy products, sundry items, tobacco products and/or alcoholic beverages. This definition also includes a liquor store, within which all or the majority of the floor area for retail sales is allocated for the sale of alcoholic beverages. This definition, however, does not include a full-service grocery store containing less than five thousand square feet of gross floor area wherein at least ten percent of that floor area is allocated for the sale of fresh meat, seafood and fresh produce products. (Ord. 1307 N.S. § 2, 1996; Ord. 1215 N.S. § 6, 1995)

**18.04.120 Corporation yard; service yard.**

"Corporation yard" or "service yard" means buildings and premises, including offices, used by any person or by the city for the storage, maintenance, repair and processing of equipment, materials and other items involved in construction or maintenance of physical facilities having permanently fixed locations, or in the operation of a fleet of rolling stock. (Ord. 559 N.S. § A (part), 1981)

**18.04.121 Delivery or service vehicle.**

"Delivery or service vehicle means" any car, motorcycle, scooter, van or truck used in a normal business capacity to deliver a product, service or good to any location off-site of the primary business establishment. (Ord. 1055 N.S. § C (part), 1991)

**18.04.123      Display area, outdoor.**

"Outdoor display area" means any area, either permanent or temporarily devoted to, or used for the display of any product or services which is external to a building. (Ord. 1055 N.S. § C (part), 1991)

**18.04.125      District.**

"District" means a portion of the territory of the city within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.130      Domestic pet.**

"Domestic pet" means any of the various animals customarily kept as household pets (except exotic animals). (Ord. 559 N.S. § A (part), 1981)

**18.04.132      Drive-in establishment.**

"Drive-in establishment" means:

A. Any place or premises where a portion of the business conducted involves the sale, dispensing or serving of food, beverages or merchandise or the provision of service to vehicles and/or their occupants.

B. Drive-in establishments shall include, but not be limited to, drive-thru photo sales, car washes, service stations, and drive-up window facilities for use by a fast-food restaurant, bank or savings and loan association or similar institution, and other similar uses as determined by the community development director (Ord. 846 § 2, 1987)

**18.04.135      Driveway.**

"Driveway" means a permanently surfaced area on a lot designed and required to provide direct access for vehicles between a street and a private garage, carport or other permitted parking space or parking area or loading area. (Ord. 559 N.S. § A (part), 1981)

**18.04.140 Driveway aisle, major.**

"Major driveway aisle" means a driveway providing principal access to the parking area or the driveway providing principal circulation throughout the parking areas or premises. (Ord. 559 N.S. § A (part), 1981)

**18.04.143 Driveway apron.**

"Driveway apron" means a paved area providing principal access from a drive aisle or street right-of-way to a garage or other covered parking space. (Ord. 1473 N.S. § 2, 2000)

**18.04.145 Dwelling.**

"Dwelling" means any building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach. (Ord. 559 N.S. § A (part), 1981)

**18.04.150 Dwelling, multifamily.**

"Multifamily dwelling" means a building designed and used as a residence for three or more families living independently of each other and containing three or more dwelling units. (Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

**18.04.154 Dwelling, single-family, attached.**

"Single-family attached dwelling" means a dwelling attached to another dwelling on at least 50 percent of the length of the attached side of the building, sometimes called a townhouse, duet, or row house. One or more walls extend from foundation to roof, which separate it from adjoining structures and form a property line. (Ord. 1415 N.S. § 1, 1998; Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

**18.04.155 Dwelling, single-family, detached.**

"Single-family detached dwelling" means a dwelling designed to contain a single dwelling unit situated on a single lot. (Ord. 1050 Ord. § 1 (part), 1991; Ord. 559 Ord. § A (part), 1981)

**18.04.157 Dwelling, two-family or duplex.**

"Two-family" or "duplex dwelling" means a structure which is designed and used as a residence for two families living independently of each other and containing two dwelling units. (Ord. 1050 N.S. § 1 (part), 1991; Ord. 899 Ord. § 1 (part), 1989)

**18.04.160 Dwelling unit.**

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking, and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy by one family on a nontransient (less than 30-day stay) basis and having not more than one kitchen. (Ord. 1415 N.S. § 2, 1998; Ord. 559 N.S. § A (part), 1981)

**18.04.162 Dwelling unit, primary.**

"Primary dwelling unit" means a single-family dwelling located on a separate lot with no other dwellings on the lot except for a secondary dwelling unit. (Ord. 1215 N.S. § 7, 1995; Ord. 884 N.S. § 1, 1989)

**18.04.164 Dwelling unit, secondary.**

"Secondary dwelling unit" means a detached or attached dwelling unit which provides complete independent living facilities for one or more persons which is located on a lot which contains an existing single-family dwelling. A secondary dwelling unit must be located in a permanent structure and includes provisions for living, sleeping, eating, cooking, sanitation and has a private entry accessed from the exterior of the building. Secondary dwelling units are not

"accessory structures" as defined in Sections 18.04.015 and 18.56.020 of this title. (Ord. 1323 N.S. § 4, 1997; Ord 1215 N.S. § 8, 1995; Ord. 884 N.S. § 2, 1989)

#### **18.04.164.5 Escort agencies**

"Escort agencies" means a person, business or other agency which provides or dispatches a person or persons who, for any form of consideration or gratuity, agree or offer to act as a companion, guide, or date for another person. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.165 Family.**

"Family" means an individual or group of individuals living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a group of individuals occupying a hotel or lodging house of any kind. (Ord. 1415 N.S. § 3, 1998; Ord. 559 N.S. § A (part), 1981)

#### **18.04.165.5 Farmers market.**

"Farmers market" is defined as a permanent or temporary market facility in which the primary activity is the sale of fresh agricultural goods on a year round or seasonal basis. The sale of agricultural goods shall constitute at least two thirds of the gross sales on the property. A temporary market facility shall consist of multiple vendors at a single location which distinguishes it from an agricultural stand. (Ord. 1215 N.S. § 9, 1995)

#### **18.04.170 Fence.**

"Fence" means a structure made of wire, wood, metal, masonry or other material used as a screen or enclosure for a field, yard or lot. (Ord. 559 N.S. § A (part), 1981)

#### **18.04.175 Fence height.**

"Fence height" means the difference in elevation of the ground surface continuously along the base of the ground level on the higher side of the fence to the top of the fence. Where a

fence is erected atop or within five feet of a retaining wall on the property line or on the same lot, the height of the fence shall include the retaining wall. (Ord. 1215 N.S. § 10, 1995; Ord. 559 N.S. § A (part), 1981)

**18.04.177 Financial service.**

"Financial service" means a use providing financial services to individuals or other entities.

The term "financial service" includes banks, savings and loan institutions, loan and lending activities and similar services. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.180 Floodplain.**

"Floodplain" means that portion of land adjacent to a creek channel which is covered by water during a one-hundred-year flood event. (Ord. 559 N.S. § A (part), 1981)

**18.04.185 Floodwaters.**

"Floodwaters" means a body of water resulting from an overflow of a river, channel, bay, drainage canal or backwater, due to inadequate downstream capacity, which inundates the land. (Ord. 559 N.S. § A (part), 1981)

**18.04.190 Floodway.**

"Floodway" means a body or channel of a stream, and those portions of the floodplain adjoining the channel, that are required to carry and discharge the floodwater or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory one-hundred-year flood. (Ord. 559 N.S. § A (part), 1981)

**18.04.195      Floor area.**

"Floor area" means the sum of the areas of the several floors of structure(s), as measured by the exterior faces of the walls, less any area within the structure(s) devoted to parking,

vehicular atriums or enclosed malls and similar areas. (Ord. 559 N.S. § A (part), 1981)

**18.04.200      Freeway.**

"Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands, or in respect to which such owners have only limited or restricted right or easement of access. The term "freeway" has the same meaning as the term "freeway" as defined in the California Streets and Highways Code. (Ord. 559 N.S. § A (part), 1981)

**18.04.205      Garage, private.**

"Private garage" means an attached or detached accessory dwelling located upon a lot developed with a residential dwelling or dwellings (or a portion of a main residential building) used by the occupants resident upon the premises principally for the storage of passenger vehicles, and other vehicles and equipment permitted to be located upon the lot. (Ord. 559 N.S. § A (part), 1981)

**18.04.210      Garage, public.**

"Public garage" means a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of motor vehicles or other vehicles; except that a structure or part thereof used only for storage (as in the case of a public parking area) or display (as in the case of an automobile sales area) of motor vehicles, but not for transients, and at which fuels and oils are not sold, and such motor vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage. (Ord. 559 N.S. § A (part), 1981)

**18.04.215 General Plan.**

"General Plan" means the General Plan of the City of Morgan Hill, California, as adopted by the city council on October 15, 1980, and as may be amended from time to time. (Ord. 559 N.S. § A (part), 1981)

**18.04.217 Guest house.**

"Guest house" means an accessory building containing a lodging unit without kitchen facilities, and used to house occasional visitors or nonpaying guests of the occupant of a dwelling unit on the same site. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.218 Hazardous materials reprocessing.**

Hazardous materials reprocessing means one or more activity to manufacture, clean, repack or perform another industrial operation involving "hazardous waste" as defined by the Santa Clara County hazardous waste management plan. This definition relates to hazardous wastes which are brought onto a site and reprocessed, with the product sent off-site. The definition does not apply to (a) transportable treatment units (TTU) which are designed to be moved either intact or in modules and which are intended to be operated at a location for a limited time; or (b) permanent on-site hazardous waste facilities at locations where hazardous waste is produced and which are owned by, leased to or under the control of the producer of the waste; all such facilities requiring state licensing to operate; or (c) "small quantity generators" as defined by the Santa Clara County hazardous waste management plan, including but not limited to small photo laboratories, dry cleaning plants and similar businesses, which are not included in (b) above regarding reprocessing of off-site hazardous waste or (d) a "salvage yard" defined by Section 18.04.390 of this chapter unless hazardous materials are processed or stored therein. Hazardous materials reprocessing is not allowed in any zoning district except an M-C campus industrial district, and is allowed in such district only upon issuance of a conditional use permit and a determination of consistency with the Santa Clara County hazardous waste management plan or a city-designated equivalent. (Ord. 1104 N.S. § 1 (Exh. A)(part), 1992)

**18.04.219 Hazardous waste.**

"Hazardous waste" means a waste or combination of wastes, which because of its quantity, concentration, toxicity, corrosiveness or flammability, or physical, chemical or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. (Ord. 1104 N.S. § 1 (Exh.A)(part), 1992)

**18.04.220 Home improvement center.**

"Home improvement center" means a retail establishment which carries a full line of building materials, appurtenances and decorator items for individual "do-it-your-selfer" residents, to facilitate the improvement, rehabilitation and maintenance of individual dwellings. This use is different in function from a building supply yard or lumberyard which stores large volumes of building materials for contractors, home builders and/or individuals, most of which is stored in special sheds or out-of-doors. (Ord. 559 N.S. § A (part), 1981)

**18.04.225 Home occupation.**

"Home occupation" means a use customarily carried on in a dwelling by a resident thereof, which use is merely incidental to the residential use of the dwelling, and subject to criteria as provided in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.230 Industrial park/business park.**

"Industrial park/business park" means a combination of industrial and/or commercial uses of contiguous lots specifically planned for industry, having continuity of design and function and uniform or integrated standards of development established by contract, covenant or deed restriction. (Ord. 559 N.S. § A (part), 1981)

**18.04.235 Kennel.**

"Kennel" means a building or portion thereof, or other enclosure, used to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. Veterinarians' offices are specifically excluded. (Ord. 559 N.S. § A (part), 1981)

**18.04.237 Kitchen.**

"Kitchen" means a room, or portion of a room primarily designed, constructed, or used for the preparation of food and containing complete cooking facilities including, but not limited to a stove or separate cook top and oven, refrigerator and kitchen sink. (Ord. 1415 N.S. § 4, 1998)

**18.04.240 Landscaping.**

"Landscaping" means the planting and maintenance of trees, shrubs, lawns and other evergreen ground cover or material, including inorganic accessory materials utilized to accent or complement the vegetation. (Ord. 559 N.S. § A (part), 1981)

**18.04.245 Lot.**

"Lot" means a piece or parcel of land owned as a single unit in common ownership, occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter, and having frontage on and access to an approved and accepted city street which meets the standards of width and improvements as specified in the regulations of the city contained in or adopted pursuant to the subdivision title of this code, and Chapter 18.50 of this title on street improvements as to the frontage of the lot involved, or having frontage on and access to an approved private street. (Ord. 559 N.S. § A (part), 1981)

**18.04.250 Lot area.**

"Lot area" means the net site area of a lot, expressed in terms of acres or square feet, exclusive of any public street easements, and exclusive of that percentage of the total area of any

other public easements or private easements which is in excess of fifteen percent of the net site area of the lot, exclusive of any such public street easements, which net site area as thus limited can be legally occupied by a principal building or a group of such buildings and accessory buildings, or can be utilized for a principal use and uses accessory thereto, together with such open spaces as are required by Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.255      Lot, corner.**

"Corner lot" means a lot abutting upon two streets at their intersections, or abutting upon a curvature of a single street, where such streets or curvature form an interior angle of less than one hundred thirty-five degrees. The point of intersection of the street lot lines, extending, is the "corner." A corner lot may have more than one corner and may also abut upon one or more streets which do not form the corner or corners of the lot. (Ord. 559 N.S. § A (part), 1981)

**18.04.260      Lot coverage or building coverage.**

"Lot coverage" or "building coverage" means that portion of the lot area covered by a building. (Ord. 559 N.S. § A (part), 1981)

**18.04.265      Lot, depth of.**

"Depth of lot" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line. (Ord. 1055 N.S. § C (part), 1991; Ord. 559 N.S. § A (part), 1981)

**18.04.270      Lot, interior.**

"Interior lot" means a lot which has only one front lot line. (Ord. 559 N.S. § A (part), 1981)

**18.04.275      Lot line, front.**

A.      "Front lot line" means any of the following:

1. Each street lot line of an interior or through lot;
  2. On a corner lot, the shorter lot line abutting a street or the line designated as the front lot line; and
  3. Any street lot line not forming a corner of a corner lot.
- B. If the side yard setback facing the street on a corner is at least as deep as the front yard setback requirement, the community development director may designate the front lot line of corner lots for setback purposes. (Ord. 1025 N.S. § 3 (part), 1991; Ord. 559 N.S. § A (part), 1981)

**18.04.280 Lot line, rear.**

"Rear lot line" means the lot line opposite and most distant from the front line, where such lot line is not also a street lot line. (Ord. 559 N.S. § A (part), 1981)

**18.04.285 Lot, through.**

"Through lot" means a lot which has two or more front lot lines which do not intersect to form a corner lot. (Ord. 559 N.S. § A (part), 1981)

**18.04.290 Lot width.**

"Lot width" means the distance measured along a straight line between the midpoints of the side property lines. (Ord. 1323 N.S. § 5, 1997; Ord. 559 N.S. § A (part), 1981)

**18.04.291 Major motor vehicle repair.**

"Major motor vehicle repair" means all repair, servicing or maintenance work not provided for under "minor motor vehicle repair," including, but not limited to, general repair, rebuilding or reconditioning of: (a) major vehicle components, such as engines, transmissions and differentials, (b) non-passenger vehicles, motor homes or trailers and trucks exceeding one and one-half ton capacity, or (c) body, frame or fender components, including collisions service, upholstery or painting. (Ord. 980 N.S. § 3 (part), 1990)

**18.04.292      Manufactured housing.**

"Manufactured housing" means a single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes. (Ord. 1050 N.S. § 1 (part), 1991)

**18.04.292.5      Massage parlor.**

As distinct from other massage establishments, "Massage Parlor" means any place, for any form of consideration or gratuity, in which massage, alcohol rubs, administration of fomentation, electric or magnetic treatment or any other treatment manipulation of the human body occurs. The exceptions to this definition include places in which services are provided by licensed doctors, nurses, osteopaths, chiropractors, teachers, barbers, beauticians or by massage technicians who have received at least 100 hours of instruction and supervised training at recognized massage schools or are licensed by the State. (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.293      Mini-storage facilities.**

A. "Mini-storage facility" means a building or group of buildings, in a controlled access and fully enclosed compound, which contain separate storage spaces of varying size, for the dead storage of customer's goods and possessions.

B. "Dead storage" means goods that are not radioactive, explosive, flammable or hazardous materials, that are not living plants or animals, that are not in use and not associated with any commercial use on the premises. (Ord. 839 N.S. § 2, 1987)

**18.04.294      Medical office.**

"Medical office" means a use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the state of California. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.295      Minor motor vehicle repair.**

"Minor motor vehicle repair" means general servicing and maintenance of passenger cars and trucks not exceeding one and one-half tons capacity. Such servicing may include, but not be limited to: (a) the repair or replacement of worn or defective parts and gaskets external to the basic engine block, such as intake and exhaust manifolds, carburetors, and water pumps, (b) engine replacement, (c) the repair or replacement of worn or defective brake parts, clutch parts, mufflers, exhaust system parts, wheel bearings, shock absorbers, tires, batteries, spark plugs and other accessible minor parts, and (d) maintenance work such as the changing or supplementing of vehicle fluids and the adjustment of mechanical components while on the vehicle. (Ord. 1135 N.S. § 3, 1993; Ord. 980 N.S. § 3 (part), 1990)

**18.04.296      Mobile home.**

"Mobile home" means a vehicle designed and equipped for human habitation, and for being drawn by motor vehicle. A mobile home is a type of "trailer" or "trailer coach" or "semi-trailer" as such terms are defined in the California Vehicle Code, and has the same meaning as "mobile home," as such term is defined in the California Health and Safety Code. For the purposes of Division I of this title, the terms "mobile home," "travel trailer" and "trailer," which are each separately defined terms in this division, are mutually exclusive terms. The term "mobile home" does not include "modular" or "manufactured dwellings" intended for assembly on-site on permanent foundations and not designed for subsequent or repeated relocation. (Ord. 899 N.S. § 1 (part), 1989; Ord. 559 N.S. § A (part), 1981)

**18.04.300      Motel, motor hotel.**

"Motel" or "motor hotel" means a group of buildings containing individual sleeping or living units, designed for use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit. (Ord. 559 N.S. § A (part), 1981)

**18.04.305      Natural land slope.**

"Natural land slope" means the predominant slope (or slopes) in its natural condition, disregarding minor surface humps or hollows. (Ord. 559 N.S. § A (part), 1981)

**18.04.310      Nonconforming building.**

"Nonconforming building" means a building or structure or portion thereof which:

A.      At the time of construction complied with the height requirements of the district in which it was located, and was sited on the lot on which it was constructed in compliance with the area and yard requirements of such district at that time; but

B.      Does not now conform to the presently existing height regulations of the district where located; or

C.      Is sited on the lot where it is situated in such a manner that there is a lack of conformity with the presently existing area or yard requirements of the district where located. (Ord. 559 N.S. § A (part), 1981)

**18.04.315      Nonconforming lot.**

"Nonconforming lot" means a lot which, when lawfully created or established, complied with the width and area requirements of the district where located, but which does not conform to the presently existing area or width regulations of the district where located, or which does not conform to the presently existing requirements of the Subdivision Ordinance governing lot standards. (Ord. 559 N.S. § A (part), 1981)

**18.04.320      Nonconforming use.**

"Nonconforming use" means a use which, when commenced, complied with the use regulations of the district in which such use was commenced, and which does not conform to the presently existing use regulations of the district where the use is being conducted or carried on. The term "nonconforming use" shall be applicable to use of buildings, structures and land. (Ord. 559 N.S. § A (part), 1981)

**18.04.322      Nudity or semi-nudity.**

"Nudity" means the appearance of the human anus, male genitals, female genitals or the areola or nipple of the female breast. "Semi-nudity" means the covering of these areas solely by small patches of cloth or similar material, held to the body solely by straps, strings or adhesives. (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.325      Nursery.**

"Nursery" means an area where agricultural products are grown for transplanting, for use of stock for building and grafting, or for sale on the premises. (Ord. 559 N.S. § A (part), 1981)

**18.04.330      Nursery school, children's nursery school, child day care service, family day care home.**

"Nursery school," "children's nursery school," "child day care service" or "family day care home" means an establishment for the part-time care and instruction of children, whether or not for compensation, other than those resident on the site. Uses under this definition shall be further defined in accordance with the following hierarchy:

A.      Small Family Day Care Homes. The use of a residential dwelling providing care for up to eight children.

B.      Large Family Day Care Homes. The use of a residential dwelling to provide care for up to fourteen children.

C.      Nursery Schools. An establishment providing care and instruction to more than twelve children. (Ord. 1473 N.S. § 3, 2000; Ord. 1215 N.S. § 11, 1995; Ord. 726 N.S. § 2, 1985; Ord. 559 N.S. § A (part), 1981)

**18.04.335      Nursing home or convalescent hospital.**

"Nursing home" or "convalescent hospital" means any place or institution which makes provisions for bed care, or for chronic or convalescent care for one or more persons, exclusive or relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Institutions for the care of alcoholics, drug addicts, persons with mental diseases, and persons with communicable diseases, such as contagious tuberculosis, are not included within the meaning of "nursing home" or "convalescent hospital." (Ord. 559 N.S. § A (part), 1981)

**18.04.340      Open space, essentially unimproved.**

A.      "Open space," for the purposes of Division I of this title, means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use, as defined in Section 65560 of the Government Code. "Essentially unimproved" means any parcel of land with a building coverage of five percent or less of the total parcel area.

B. "Open space" also means an outdoor area created by artificial or natural design not otherwise occupied by buildings (open spaces may be integral with, but may not be totally covered by, building areas, except as otherwise specified by district regulations), or paved areas for vehicular circulation or parking. (Ord. 559 N.S. § A (part), 1981)

**18.04.345 Overlay district.**

"Overlay district" means a district described by the zoning map, within which, through imposition of a special designation, additional regulations and requirements apply in addition to those of the district to which such designation is added. (Ord. 559 N.S. § A (part), 1981)

**18.04.346 Owner.**

An "owner" of an "adult business" means any person, corporation, partnership or other form of ownership, which (a) controls the business, other than a hired manager; or (b) receives over ten percent of the net receipts of the business. The word "owner" applies to any and all "owners" singly and collectively. (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.350 Parking space.**

"Parking space" means a permanently surfaced area of not less than one hundred eight square feet, either within a structure or in the open, excluding driveways or access drives, for the parking of a vehicle. (Ord. 559 N.S. § A (part), 1981)

**18.04.355 Performance standards.**

"Performance standards" means regulations for the control of "dangerous or objectionable elements," as defined in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.357      Personal service.**

"Personal service" means a use providing services of a personal convenience nature; beauty and barber shops, massage therapy, shoe repair, self-service laundry and cleaning services, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), repair and fitting of clothes and personal accessories, copying, and similar services. (Ord. 1215 N.S. § 12, 1995; Ord. 1135 N.S. § 4, 1993; Ord. 899 N.S. § 1 (part), 1989)

**18.04.358      Police permit.**

A "police permit" shall mean a permit, as described in Section 5.60.010 et seq. of the Municipal code, and issued by the chief of police or other person appointed to act in his or her position by the city manager, which verifies the credentials and law enforcement history, if any, of the owner or owners and/or manager or managers of any "adult business" and other matters necessary to protect the public health, safety and general welfare. (Ord. 1150 N.S. § 2 (part), 1993)

**18.04.360      Principal permitted use.**

"Principal permitted use" means a use for which no conditional use permit is required, but which may be subject to site plan and architectural approval, planned unit development approval, or performance standards procedure, as specified in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.362      Professional offices.**

"Professional offices" means an office from which and at which a doctor, lawyer, engineer, architect, accountant or similar professional persons may offer services. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.364      Public facility.**

"Public facility" means a noncommercial use established primarily for the benefit and enjoyment of the community in which it is located, including a library, school, museum, recreation center, water well, reservoir and similar facilities. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.365      Public use.**

"Public use" means a use operated exclusively by a public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playgrounds, hospitals, and administrative and service facilities. (Ord. 559 N.S. § A (part), 1981)

**18.04.370      Quasi-public use.**

"Quasi-public use" means a use operated by a private nonprofit educational, religious, recreational, charitable or medical institution, such use having the purpose primarily of serving the general public, and including uses such as churches, private schools, and universities, community, youth and senior citizen recreational facilities, private hospitals, and the like. (Ord. 559 N.S. § A (part), 1981)

**18.04.373      Research and development.**

"Research and development" means a use engaged in study, testing, design, analysis, and experimental development of products, processes, or services, including incidental manufacturing of products or provision of services to others. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.381      Recreational vehicle long-term space.**

"Recreational vehicle long term space" is one which is occupied by any resident or family or vehicle for longer than two hundred and forty-four days in any consecutive three hundred and sixty-five day period, which would be in violation of this section. A short term space, occupied thirty consecutive days or less; or a transitional space, occupied thirty-one to two hundred and

forty-four days, in any consecutive three hundred and sixty-five day period, is not a “recreational vehicle long term space.” (Ord. 1233 N.S. § 4, 1995; Ord. 1100 N.S. § 1 (part), 1992)

#### **18.04.382      Recreational vehicle (RV) park.**

"Recreational Vehicle (RV) park" means any use of land upon which two or more recreational vehicles are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation or transitional housing purposes. For purposes of this definition, RV parks shall be owned by a single owner or organization and all recreational vehicle lots or spaces shall be rented or leased to the same person or group of persons who occupy the same recreational vehicle for a period not to exceed that provided by section 18.49.010 et seq. The term of stay or occupancy, and mix thereof, by vehicles in different sections of a park may be defined by each conditional use permit for each park, except that the maximum time limits specified in Section 18.04.381 shall be observed. For spaces which are defined for short term or transitional occupancy, no longer term occupancy shall be permitted without an amendment to the conditional use permit. (Ord. 1233 N.S. § 5, 1995; Ord. 1100 N.S. § 1 (part), 1992; Ord. 1059 N.S. § 1, 1991)

#### **18.04.382.5      Recreational vehicle short-term space.**

A recreational vehicle park space which is designated for stays of thirty days or less in one continuous stay, and no more than ninety days in any consecutive three hundred and sixty-five day period, shall be determined to be a “recreational vehicle short-term space,” providing for short-term stays for recreational vehicles. (Ord. 1233 N.S. § 6, 1995)

#### **18.04.382.7      Recreational vehicle transitional space.**

A recreational vehicle space which is designed for stays of thirty-one to two hundred forty-four days in any consecutive three hundred and sixty five day period shall be determined to be a “recreational vehicle transitional space,” for persons moving to the city who may be in transition to permanent housing and require a temporary address in lieu of such permanent housing. The number, term of stay, location within the park and other parameters of recreational vehicle transitional spaces, as a proportion of a recreational vehicle park’s spaces, shall be determined by conditional use permit. Any and all short-term stays, singly or combined, as defined in Section 18.040.382.5 shall be included as a portion of a transitional stay, if such short-term

stay occurs within the same consecutive three hundred sixty-five day period as the transitional stay. (Ord. 1233 N.S. § 7, 1995)

#### **18.04.382.8 Restaurant, fast food.**

A fast-food restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out, and whose design or principal method of operation includes both of the following characteristics:

1. Foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and
2. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building is allowed, or encouraged. (Ord. 1487 N.S., 2000)

#### **18.04.382.9 Restaurant, sit-down.**

A sit-down restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

1. Customers, normally provided with an individual menu, are served their food, desserts, or beverages on reusable tableware by a restaurant employee at the same table or counter at which said items are consumed.
2. A cafeteria-type operation where food, desserts, or beverages generally are consumed within the restaurant building. (Ord. 1487 N.S., 2000)

#### **18.04.383 Retail, extensive.**

"Extensive retail" means retail sales where more than seventy-five percent of the gross floor area is used for display, sales, and related storage of bulky commodities, such as household furniture and appliances, lumber and building materials, carpeting and floor covering, heating and air conditioning equipment, and similar goods which demonstrably generate a demand for fewer parking spaces than do "intensive retail uses." (Ord. 1025 N.S. § 2 (part), 1991)

**18.04.384      Retail, intensive.**

"Intensive retail" means any retail use that is not extensive. (Amended during 8/93 supplement; Ord. 1025 N.S. § 2 (part), 1991)

**18.04.385      Sales, wholesale.**

"Wholesale sales" means the sale of goods for resale, or the sale of goods produced or processed from raw or primary materials on the premises, or the sale of construction materials which require bulk delivery of the product. (Ord. 559 N.S. § A (part), 1981)

**18.04.390      Salvage yard.**

"Salvage yard" means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used-lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations. (Ord. 559 N.S. § A (part), 1981)

**18.04.393      Senior citizen housing.**

"Senior citizen housing" means a dwelling unit which is designed for, and limited to the occupancy by persons who are of sixty-two years of age or older. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.394      Sensitive areas or sensitive uses.**

"Sensitive areas" or "sensitive uses" shall mean and include any of the following, for which proximity to an "adult business" can cause diminished real estate values, urban blight and other adverse secondary effects:

1. Any religious institution, on land leased or owned by any church, synagogue, mosque, temple or any school or meeting hall operated by such institution.

2. Any public or private elementary, junior high or high school, preschool or child day care center.
3. Any public park on which recreation games may be played, including lawn and parking areas, but excluding natural open space on slopes exceeding twenty percent.
4. Any public assembly or public use civic building, including City Hall, the Library and the Post Office, but excluding police and fire stations.
5. Any area developed with or shown on the General Plan for future residential development.
6. Any hospital except a veterinary hospital.
7. Any Freeway or arterial street which is identified in the General Plan Circulation Element, and which residential and visitor traffic uses to access other "Sensitive Uses". (Ord 1150 § 2 (part), 1993)

**18.04.395 Setback.**

“Setback” means the distance between the building and any lot line. (Ord. 1473 N.S. § 5, 2000)

**18.04.396 Setback Line.**

“Setback Line” means that line which defines the minimum required distance from any lot line, within which a must be placed. (Ord. 1473 N.S. § 6, 2000)

**18.04.399 Site, building.**

"Building site" means the ground area of a building or buildings, together with all open spaces required by Division I of this title. (Ord. 1473 N.S. § 4, 2000: Ord. 559 N.S. § A (part), 1981)

**18.04.400 Special residential care facilities.**

"Special residential care facilities" means any state-authorized, certified or licensed family-care home, foster home, or group home serving six or fewer mentally disordered or

otherwise handicapped persons, or dependent and neglected children or the elderly, when such homes provide care on a twenty-four-hour a day basis. (Ord. 559 N.S. § A (part), 1981)

#### **18.04.401 Specified anatomical areas.**

"Specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, anus or female breasts below a point immediately above the top of the areolae; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.402 Specified criminal acts.**

"Specified criminal acts" shall mean conviction of an act or acts which are sexual crimes against children, sexual abuse, or rape; as well as crimes connected with an adult business including, but not limited to, sexual assault, distribution of obscenity or material harmful to minors, prostitution, solicitation of prostitutes, pimping or pandering, unlawful acts of sexual intercourse, sodomy, oral copulation or masturbation occurring on the premises of the "adult business". Indictment or accusation does not constitute a "specified criminal act." (Ord. 1150 N.S. § 2 (part), 1993)

#### **18.04.403 Specified Sexual Activities.**

"Specified Sexual Activities" shall mean and include any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
3. Masturbation, actual or simulated; or
4. Human genitals in a state of sexual stimulation, arousal or tumescence;
5. Excretory functions as part of or in connection with any of the activities set forth in this Section. (Ord 1150 § 2 (part), 1993)

**18.04.405      Stable.**

"Stable" means a building or portion thereof, or other enclosure, not including pastures, used to confine, feed, exercise, show or provide shelter for horses, cows or other hoofed animals, whether for private, public or commercial use. "Stable" includes, but is not limited to, stall, corral, paddock, barn, exercise area and arena, along with structures accessory thereto. (Ord. 559 N.S. § A (part), 1981)

**18.04.410      Standard industrial classification manual (SIC).**

"Standard industrial classification manual (SIC)" means the latest publication prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President of the U.S., and available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. As used in Division I of this title, the SIC shall constitute the detailed descriptions of uses enumerated in the various use districts, except where such uses are otherwise defined in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.415      Story.**

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it. (Ord. 559 N.S. § A (part), 1981)

**18.04.420      Street frontage.**

"Street frontage" means:

- A.      The existence of a street lot line; or
- B.      The lineal foot measurement of a lot at a street lot line. (Ord. 559 N.S. § A (part), 1981)

**18.04.425      Structure.**

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite

manner, except benches, statuary, planter boxes less than thirty-six inches in height, fish ponds less than eighteen inches in depth, and wood fences seventy-two inches or under in height. (Ord. 559 N.S. § A (part), 1981)

**18.04.427      Use, temporary.**

"Temporary use" means a use established on private property, that exists for a specified length of time, and which is discontinued within that time period. (Ord. 866 N.S. § 1, 1988)

**18.04.430      Tract office, temporary.**

"Temporary tract office" means an office facility used on a temporary basis only, located on or immediately adjacent to a tract or subdivision with new development thereon, for sales and administrative activity associated with the development. (Ord. 559 N.S. § A (part), 1981)

**18.04.435      Townhouse.**

"Townhouse" means a dwelling unit which is a portion of a multiple dwelling and has one or more common walls with other dwelling units, where such unit is the sole dwelling unit on a separate lot, and where ownership of such dwelling unit includes an interest in common areas other than the lot upon which the dwelling unit is situated. (Ord. 559 N.S. § A (part), 1981)

**18.04.437      Transportation terminal.**

"Transportation terminal" means a depot, terminal, or transfer facility for passenger transportation services. (Ord. 899 N.S. § 1 (part), 1989)

**18.04.439      Travel trailer or recreational vehicle.**

"Travel trailer" or "recreational vehicle" or "coach" shall have the same definition as in Sections 18010 and 18215.5 of the California Health and Safety Code, except that all recreational vehicles or travel trailers parked for more than thirty days in a park in Morgan Hill shall have a tag of certification as described in Sections 4030 and 4032 of Title 25, Division 1, Chapter 3 of

the California Code of Regulations. Such vehicles exclude home-made or nonstandard travel trailers or recreational vehicles and specifically exclude camper shells or other removable sections of pickup trucks. Such vehicles so excluded from stays of over thirty days are not excluded from stays of thirty days or less at recreational vehicle short term occupancy spaces in Morgan Hill. A "travel trailer" is not a "residential development," except where a stay exceeds two hundred forty-four days, in any consecutive three hundred sixty-five day period, in any recreational vehicle park or other lawful location. (Ord. 1233 N.S. § 8, 1995; Ord 1100 N.S. § 1 (part), 1992)

**18.04.440      Use, allowed.**

"Allowed use" means a use that is either permitted or conditional within a zoning district. (Ord. 559 N.S. § A (part), 1981)

**18.04.445      Use, permitted.**

"Permitted use" means a use for which no conditional use permit is required, but which may be subject to other approval proceedings as specified in this chapter. (Ord. 559 N.S. § A (part), 1981)

**18.04.447      Vehicle space.**

"Vehicle space" means any portion of a park which may be leased or subject to a subdivision map, sold to any person with the intent of occupancy by a recreational vehicle or travel trailer. If the intent to occupy or actual occupancy of the space exceeds the limits of Section 18.04.383, the vehicle space shall be defined as a "residential development" under Section 18.78.020 of the municipal code, and shall only have such long-term occupancy if an allocation is granted under Section 18.78.010 et seq. of the Municipal Code. (Ord. 1100 N.S. § 1 (part), 1992)

**18.04.448      Warehousing and distribution.**

"Warehousing and distribution" means a use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of

materials which are flammable or explosive or which create hazardous or commonly recognized offensive conditions. (Ord. 1415 N.S. § 35, 1998; Ord. 899 N.S. § 1 (part), 1989)

**18.04.450      Yard, front.**

"Front yard" means an open space extending the full width of the lot, between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.455      Yard, front, least depth.**

"Front yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the front lot line. Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street, as adopted by the city, differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as adopted, or shall be measured from any officially adopted setback lines. (Ord. 559 N.S. § A (part), 1981)

**18.04.460      Yard, rear.**

"Rear yard" means an open space between a building and a rear lot line, extending the full width of the lot (except for any portion thereof which overlaps a street side yard), unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.465      Yard, rear, least depth.**

"Rear yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the rear lot line. (Ord. 559 N.S. § A (part), 1981)

**18.04.470      Yard, side.**

"Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

**18.04.475      Yard, side, least width.**

"Side yard least width" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line. Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if the officially adopted location of the right-of-way line of such street differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as adopted. (Ord. 559 N.S. § A (part), 1981)

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